

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

400S0191

SENATE BILL NO. 22

Introduced by: The Committee on Health and Human Services at the request of the
Department of Health

1 FOR AN ACT ENTITLED, An Act to provide for the regulation and licensure of birth centers.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Any birth center licensed by the state in accordance with chapter 34-12, may
4 operate to provide care for women before, during, and after normal pregnancy, labor, and birth.

5 Section 2. That § 34-12-1.1 be amended to read as follows:

6 34-12-1.1. Terms used in this chapter mean:

7 (1) "Ambulatory surgery center," any facility which is not part of a hospital and which
8 is not an office of a dentist, whether for individual or group practice, in which
9 surgical procedures requiring the use of general anesthesia are performed upon
10 patients;

11 (2) "Assisted living center," any institution, rest home, boarding home, place, building,
12 or agency which is maintained and operated to provide personal care and services
13 which meet some need beyond basic provision of food, shelter, and laundry;

14 (3) "Chemical dependency treatment facility," any facility which provides a structured
15 inpatient treatment program for alcoholism or drug abuse;



- 1 (4) "Health care facility," any institution, sanitarium, maternity home, birth center,
2 ambulatory surgery center, chemical dependency treatment facility, hospital, nursing
3 facility, assisted living center, rural primary care hospital, adult foster care home,
4 inpatient hospice, residential hospice, place, building, or agency in which any
5 accommodation is maintained, furnished, or offered for the hospitalization, nursing
6 care, or supervised care of the sick or injured;
- 7 (5) "Hospital," any establishment with an organized medical staff with permanent
8 facilities that include inpatient beds and is primarily engaged in providing by or
9 under the supervision of physicians, to inpatients, any of the following services:
10 diagnostic or therapeutic services for the medical diagnosis, treatment, or care of
11 injured, disabled, or sick persons; obstetrical services including the care of the
12 newborn; or rehabilitation services for injured, disabled, or sick persons. In no event
13 may the inpatient beds include nursing facility beds or assisted living center beds
14 unless the same are licensed as such pursuant to this chapter;
- 15 (6) "Maternity home," any institution, place, building, or agency in which, within a
16 period of six months, more than one woman, during pregnancy, or during or after
17 delivery, except women related by blood or marriage, are kept for care or treatment;
18 or which has in its custody or control at any one time, two or more infants under the
19 age of two years, unattended by parents or guardians, for the purpose of providing
20 them with care, food, and lodging, except infants related to the one having such
21 custody or control by blood or marriage;
- 22 (7) "Nursing facility," any facility which is maintained and operated for the express or
23 implied purpose of providing care to one or more persons whether for consideration
24 or not, who are not acutely ill but require nursing care and related medical services

1 of such complexity as to require professional nursing care under the direction of a
2 physician on a twenty-four hour per day basis; or a facility which is maintained and
3 operated for the express or implied purpose of providing care to one or more persons,
4 whether for consideration or not, who do not require the degree of care and treatment
5 which a hospital is designed to provide, but who because of their mental or physical
6 condition require medical care and health services which can be made available to
7 them only through institutional facilities;

8 (8) "Critical access hospital," any nonprofit or public hospital providing emergency care
9 on a twenty-four hour basis located in a rural area which has limited acute inpatient
10 services, focusing on primary and preventive care, and which has in effect an
11 agreement with a general hospital that provides emergency and medical backup
12 services and accepts patient referrals from the critical access hospital. For the
13 purposes of this subdivision, a rural area is any municipality of under fifty thousand
14 population;

15 (9) "Adult foster care home," a family-style residence which provides supervision of
16 personal care, health services, and household services for no more than four aged,
17 blind, physically disabled, developmentally disabled, or socially-emotionally disabled
18 adults;

19 (10) "Inpatient hospice," any facility which is not part of a hospital or nursing home which
20 is maintained and operated for the express or implied purpose of providing all levels
21 of hospice care to terminally ill individuals on a twenty-four hour per day basis; ~~and~~

22 (11) "Residential hospice," any facility which is not part of a hospital or nursing home
23 which is maintained and operated for the express or implied purpose of providing
24 custodial care to terminally ill individuals on a twenty-four hour per day basis; and

(12) "Birth center," any health care facility at which a woman is scheduled to give birth following a normal, uncomplicated pregnancy, but does not include a hospital or the residence of the woman giving birth.

Section 3. Any birth center shall be located within thirty minutes normal driving time of a hospital licensed pursuant to chapter 34-12 that provides routine birth services.

Section 4. Except as provided in section 5 of this Act, no person may establish or operate a birth center in this state without an appropriate license issued under this Act.

Section 5. The following facilities are exempt from the requirements of this Act:

(1) A hospital licensed pursuant to chapter 34-12; and

(2) A critical access hospital licensed pursuant to chapter 34-12.

Section 6. An applicant for a birth center license shall submit an application to the Department of Health on a form prescribed by the department. The application shall be accompanied by a nonrefundable license fee of five hundred dollars. The department shall issue a license if, after inspection and investigation, the department finds that the application and birth center meet the requirements of this Act. The birth center license is renewable annually on a form prescribed by the department.

Section 7. The Department of Health shall promulgate rules pursuant to chapter 1-26 for the issuance, renewal, denial, suspension, and revocation of a license to operate a birth center. The department shall adopt, by rules promulgated pursuant to chapter 1-26, minimum standards to protect the health and safety of mothers and infants of a birth center. The rules shall establish minimum standards regarding:

(1) Facility safety, including fire safety and construction, ADA accessibility, and sanitation;

(2) Qualifications and supervision of professional and nonprofessional personnel,

1 including certification in neonatal and maternal CPR;

2 (3) Emergency equipment and procedures to provide emergency care;

3 (4) Medical records and reports;

4 (5) Birthing room requirements, including minimum size requirements;

5 (6) Support areas for patients, including toilet, hand washing station, and bath/shower
6 facility;

7 (7) Infection control, including cleaning and laundry requirements, scrub area,
8 decontamination, disinfection, sterilization, and storage of sterile supplies, storage
9 for soiled product, and disposal of medical waste;

10 (8) Medication control;

11 (9) Quality assurance;

12 (10) Information on and access to patient follow-up care;

13 (11) Informed consent and disclosure requirements;

14 (12) Patient screening, assessment, and monitoring, including transport protocols and
15 physician referral protocols; and

16 (13) Administrative and public areas, including staff support areas, reception area, family
17 room, public restroom with toilet and hand washing station, nourishment area, record
18 storage, and provisions for drinking water.

19 Section 8. A birth center shall adopt, implement, and enforce a written risk assessment
20 system that conforms to the patient assessment protocols established pursuant to section 7 of
21 this Act. A birth center shall perform the risk assessment of a potential client prior to accepting
22 the client for admission and shall only admit a client that has been assessed to have a low-risk
23 pregnancy. A birth center client shall be continually assessed to identify if her condition deviates
24 from a low-risk pregnancy at any time during the pregnancy, delivery, or postpartum period. The

- 1 birth center shall refer or transfer the client to a physician or hospital in accordance with the
- 2 standards established pursuant to section 7 of this Act.